



South Carolina House of Representatives

Legislative Update

Robert W. Harrell, Jr., Speaker of the House

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HOUSE WEEK IN REVIEW

The House of Representatives approved and sent to the Senate **H.3035**, legislation which makes revisions pertaining to the **SCHOOL CALENDAR**. This legislation allows a local school district to establish its calendar based on a statutory term of 180 days of instruction or the equivalent number of instructional hours. Other references pertaining to the statutory school term are also updated to reflect not just days but an equivalent number of hours. Among other things, this legislation provides that the statutory school term consists of a minimum of 180 days of instruction or the equivalent of 1,170 instructional hours and ten additional days or the equivalent of 60 hours for secondary schools or 1,080 hours and ten additional days or the equivalent of 60 hours for elementary schools. A local school district shall schedule ten additional days or the equivalent of 60 hours: three days or 18 hours must be used for professional development; two days may be used for the opening of schools; and five days may be used for teacher planning, academic plans and parent conferences.

The House concurred in Senate amendments to **H.3642** and enrolled the legislation for ratification. This joint resolution authorizes the **SUSPENSION OF AUTOMATIC STEP INCREASES IN TEACHER SALARIES** by providing that a local school district may, for Fiscal Year 2011-2012, pay teachers based on the years of experience the teachers possessed in fiscal year 2010-2011 without negative impact to their experience credit. The legislation provides voting and notice requirements for this decision. The legislation requires that payment under the suspension must be applied uniformly. If a local school district takes advantage of this authority to suspend step increases, the school district may not pay district or school administrators more than they received in fiscal year 2010-2011. A local school district board of trustees may, however, return the salary of a district or school administrator to the previous year's base salary if he was subject to a furlough or increase the salary of a district or school administrator if he changed his position within the district in the prior academic year. The legislation requires a local school district to continue to pay teachers and administrators for changes in their education levels.

The House approved and sent to the Senate **H.4145**, a bill that provides for the **SHORTENING OF THE LEGISLATIVE SESSION**. The legislation changes the date for the mandatory adjournment of the General Assembly from the first Thursday in June to the last Thursday in May preceding the National Memorial Day holiday.

The House adopted and sent to the Senate **H.4195**, a concurrent resolution **EXTENDING MANDATORY ADJOURNMENT OF THE GENERAL ASSEMBLY IN 2011**. The legislation authorizes the General Assembly to meet after the Thursday, June 2, 2011, deadline to allow the Senate and the House of Representatives to meet in statewide session on Tuesday, June 14, 2011, at 12:00 noon and to continue in statewide session, if necessary, until not later than 5:00 p.m. on Friday, July 1, 2011. During this extension, the General Assembly must limit itself to consideration of redistricting plans for the South Carolina House of Representatives, South Carolina Senate, and Congressional Districts and a list of other items including gubernatorial vetoes, confirmation of appointments, and conference and free conference reports.

The House returned **S.431** to the Senate with amendments. In response to a recent South Carolina Supreme Court ruling that affects coverage of **COMMERCIAL GENERAL LIABILITY INSURANCE POLICIES**, the legislation establishes parameters of coverage for such contracts of insurance that address occurrences of damages or injury during the policy period and insure a construction professional for liability arising from construction related work. The legislation provides that commercial general liability insurance policies shall contain or be deemed to contain a definition of 'occurrence' that includes: (1) an accident, including continuous or repeated exposure to substantially the same general harmful conditions; and (2) property damage or bodily injury resulting from faulty workmanship, exclusive of the faulty workmanship itself. The legislation applies to any pending or future dispute over coverage that would otherwise be affected by this provision as to commercial general liability insurance policies issued in the past, currently in existence, or issued in the future.

The House amended, approved, and sent to the Senate **H.3660**, a bill providing **ENHANCED ENFORCEMENT PROVISIONS FOR THEFT OF COPPER** and other nonferrous metals. The legislation revises the penalties for obtaining nonferrous metals unlawfully. This legislation eliminates a misdemeanor offense with \$2,000 as the maximum amount of property damage involved in the offense and revises property damage amounts for the remaining felony penalties. Under this legislation, a person may not sell copper to another person or entity without first receiving a permit issued by a sheriff. The legislation requires a secondary metals recycler to display certain signs in his place of business. The legislation revises the penalties for purchasing nonferrous metals unlawfully. A person who purchases copper from a seller that does not have a permit in order to resell the copper under his own permit is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. With certain exceptions, the bill provides that it is unlawful for a person to transport or have in the person's possession on the highways of this State nonferrous metals of an aggregate of more than ten pounds in a vehicle other than a vehicle used in the ordinary course of business for the purpose of transporting nonferrous metals. The legislation requires secondary metals recyclers to obtain a valid purchase permit provided by the sheriff of the county in which each of the secondary metals recycler's fixed sites are located. The purchase permit must be renewed every two years. Each biennial purchase permit costs \$200 paid to and retained by the sheriff's department providing the permit. The legislation includes eligibility requirements to obtain and renew the purchase permit.

The House approved **S.312**, a bill making **REVISIONS TO THE SOUTH CAROLINA FEDERAL AND OTHER FUNDS OVERSIGHT ACT**, and enrolled the bill for ratification. The legislation expands the definition of "matching funds" so that it includes not only general fund monies but also other fund monies that are used to meet federal match requirements. The legislation requires state agencies receiving federal funds to provide in budget submissions for the proposed budget details of conditions imposed on the state applicable to federal funds included in the agency's budget submission. The legislation requires the recommended budget specifically to accept in detail those conditions when federal funds are included in the proposed budget. The legislation revises provisions governing the expenditure by a state agency of unanticipated federal funds and private grant funds not appropriated in appropriations acts, so as to require the agency's submission of an expenditure proposal for the anticipated funds to the State Budget and Control Board to include the conditions imposed on the state's receipt

and expenditure of the federal funds and, in authorizing the receipt and expenditure, the board's acceptance of the conditions.

The House approved **S.824** and enrolled the legislation for ratification. This joint resolution designates the South Carolina Jobs-Economic Development Authority as the authorized agency to implement the **STATE SMALL BUSINESS CREDIT INITIATIVE** within and on behalf of the state of South Carolina. The legislation coordinates with the federal Small Business Jobs Act of 2010, through which the United States Congress created the State Small Business Credit Initiative and appropriated \$1.5 billion to be allocated by the United States Department of the Treasury to provide direct support to states for use in programs designed to increase access to credit for small businesses.

The House concurred in Senate amendments to **H.3287**, regarding **ABANDONED WATERCRAFT**, and enrolled the bill for ratification. This bill adds that an abandoned watercraft may be removed, at the risk and expense of the owner, and disposed of by a governmental entity that has jurisdiction over the area where the abandoned watercraft is located. The legislation establishes requirements for investigation and notification by the Department of Natural Resources in order to determine the status of the watercraft as abandoned. Any watercraft identified by the department as abandoned for at least ninety days may be claimed by any person or entity as abandoned property.

The House approved **S.643** and enrolled the bill for ratification. This bill limits the state's prohibition on the display a wild caught or captive bred **MARINE MAMMALS** so that it applies only to the order Cetacean (dolphins and whales). The legislation revises penalties for the misdemeanor such that a violator must be fined not more than one thousand dollars or imprisoned for not more than six months.

The House approved **S.232**, relating to a **HEALTH CARE FACILITY**, and enrolled the bill for ratification. The bill adds narcotic treatment programs in the definition of Health Care Facility, requiring these programs to obtain a certificate of need approval.

The House approved **S.590** and enrolled the legislation for ratification. This joint resolution establishes the **GEROPSYCHIATRIC DISTRICT PART UNIT PILOT PROJECT**. The project will assess the provision of care for a defined population of patients at least sixty-five years old and in need of psychiatric crisis stabilization services. The pilot project shall be conducted at two Critical Access Hospitals (CAHs) in the State and must be coordinated between the South Carolina Department of Health and Environmental Control (DHEC) and the South Carolina Department of Mental Health. To the extent practicable, the CAHs must be located in different regions of the State with differing racial and socioeconomic demographics. A CAH desiring to participate in this pilot project shall apply to DHEC by July 1, 2012.

The House approved **S.358** and enrolled the bill for ratification. This legislation makes revisions relating to the Department of Motor Vehicles (DMV) issuance of **RESEARCH AND DEVELOPMENT LICENSE PLATES**. Among other things, the legislation allows these plates to be issued to a research and development business or its contractors. The legislation allows for fleet research and development license plates. The legislation provides for the distribution of the fees for these license plates. The legislation allows the DMV to enter into reciprocal agreements with other states regarding the registration and operation of these vehicles. The legislation further provides that it is the sole

responsibility of the research and development business or contractor to take any actions required by another state to test, evaluate or operate the vehicle in another state.

The House returned **S.586**, relating to the **STATE HEALTH AND DENTAL INSURANCE PLANS**, to the Senate with amendments. This bill includes special purpose districts providing sanitation services and joint agencies established pursuant to Chapter 23, Title 6 among the entities eligible to participate in the State Health and Dental Insurance Plans. The legislation directs the Employee Insurance Program of the Budget and Control Board to develop and implement, for employees and their spouses who are health plan participants, an incentive plan to encourage participation in programs that promote health and the prevention of disease. The Employee Insurance Program is further directed to implement a premium reduction or other financial incentive, beginning on January 1, 2012, for those employees and their spouses who participate in these programs.

The House approved and sent to the Senate **H.3059**, a bill **REVISING THE INCOME TAX CREDIT FOR PLUG-IN HYBRID VEHICLES**. The legislation establishes technical criteria for qualifying vehicles and provides that, beginning with fiscal year 2011, all claims made must not exceed five hundred thousand dollars a fiscal year and shall apply to eligible claimants on a first-come, first-serve basis as determined by the Department of Revenue until the total allowable credits for that fiscal year are exhausted. The legislation provides for the tax credit to sunset after December 31, 2016.

The House approved and sent to the Senate **H.3934** which revises the application of the **MULTI-LOT PROPERTY TAX DISCOUNT** available under provisions for the property tax assessment of undeveloped acreage subdivided into lots.

The House amended, approved, and sent to the Senate **H.3111**, a bill relating to **WORKERS' COMPENSATION INSURANCE**. The legislation authorizes the Workers' Compensation Commission to adopt criteria to establish a new schedule of workers' compensation insurance fees for attorneys, physicians, and hospitals or adjust an existing fee schedule based in whole or in part on the requirements of a federally funded program, but if it adopts adjustments to an existing fee schedule, it must adopt these adjustments on an annual basis. A review process is established for the commission to decide whether to approve proposed adjustments that would increase or reduce these fees by more than ten percent annually. The legislation also establishes requirements for insurers writing workers' compensation insurance to adopt the most recent loss costs.

The House approved and sent to the Senate **H.4150**, a concurrent resolution urging private insurers, who already cover **INFLUENZA VACCINATION**, to cover all reasonable and customary expenses, including the cost of the vaccine and the administration fee, incurred when the influenza vaccine is administered outside of a physician's office in a school setting or in another related setting.

The House approved and sent to the Senate **H.4119**. This bill revises provisions relating to the **DECEPTIVE OR MISLEADING ADVERTISEMENT OF A LIVE MUSICAL PERFORMANCE**, so as to define a sound recording, and to provide certain exemptions, remedies, and a fine.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The full committee did not meet this week.

JUDICIARY

The full committee did not meet this week.

LABOR, COMMERCE AND INDUSTRY

The full Labor, Commerce and Industry Committee met on Tuesday, May 3, and gave a report of favorable with amendments on **S.431**. In response to a recent South Carolina Supreme Court ruling that affects coverage of **COMMERCIAL GENERAL LIABILITY INSURANCE POLICIES**, the legislation establishes parameters of coverage for such contracts of insurance that address occurrences of damages or injury during the policy period and insure a construction professional for liability arising from construction related work. The legislation provides that commercial general liability insurance policies shall contain or be deemed to contain a definition of 'occurrence' that includes: (1) an accident, including continuous or repeated exposure to substantially the same general harmful conditions; and (2) property damage or bodily injury resulting from faulty workmanship, exclusive of the faulty workmanship itself. The legislation applies to any pending or future dispute over coverage that would otherwise be affected by this provision as to commercial general liability insurance policies issued in the past, currently in existence, or issued in the future.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full committee did not meet this week.

WAYS AND MEANS

The full Ways and Means Committee met on Tuesday, May 3, to elect officers. The Honorable W. Brian White of House District 6 (Anderson County) was elected Chairman. The Honorable Harry B. "Chip" Limehouse, III of House District 110 (Charleston and

Berkeley Counties) was elected First Vice Chairman. The Honorable J. Roland Smith of House District 84 (Aiken County) was elected Third Vice Chairman.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

EDUCATION AND PUBLIC WORKS

H.4175 *SHARE THE ROAD DRIVER TRAINING* Rep. Daning

This legislation provides that Share the Road Driver Training must be included in all public and private driving education/training courses. The Department of Motor Vehicles shall incorporate additional comprehensive safety educational material relative to sharing the road with commercial motor vehicles in the driver safety manual and other medium. The legislation provides that a holder of a commercial driver's license who has been convicted of certain moving violations must complete an online remedial training course. Also, a person under the age of twenty-five who has been convicted of certain moving violations which contributed to a collision involving certain commercial motor vehicles must complete an online remedial training course. The legislation further provides that motor carriers covered by the federal Motor Carrier Safety Act new entrant program must complete a Department of Public Safety and Department of Motor Vehicles approved training course; these courses must be offered through a South Carolina-based nonprofit organization which has expertise in commercial motor vehicle safety.

JUDICIARY

S.854 *REVISIONS TO ASSAULT AND BATTERY OFFENSES* Sen. Malloy

Relating to assault and battery offenses, this legislation substitutes the term "a person" for the term "an adult".

H.4173 *PROTECTIONS FOR REPORTING CHILD ABUSE OR NEGLECT* Rep. Bingham

This legislation provides that an employer must not dismiss, demote, suspend, or otherwise discipline or discriminate against an employee or prospective employee who is required or permitted to report child abuse or neglect. A person who is adversely affected by conduct that is in violation of these provisions may bring a civil action for reinstatement and back pay. An action may be commenced against any employer, including the State, a political subdivision of the State and any office, department, independent agency, authority, institution, association, or other body in state government. An action must be commenced within three years after the cause of action arises. If judgment is rendered in favor of the plaintiff in an action, the court also shall award a reasonable attorney's fee in favor of the plaintiff against the defendant.

H.4174 ILLEGAL IMMIGRATION REVISIONS Rep. Loftis

This legislation makes various revisions pertaining to the presence of illegal aliens in the State. Among other things, the legislation includes the following:

- The legislation allows a resident of a political subdivision to bring a civil action to enjoin the enactment of certain ordinances or policies that limit or prohibit a local official from seeking to enforce a federal or state law with regard to immigration. A court may impose a fine if the court finds that the political subdivision has intentionally violated certain provisions.
- Relating to aiding illegal entry or harboring an unlawful alien, this legislation includes in the purview of the statute the person who entered the country, remained, or sheltered themselves from detection illegally.
- This legislation creates the offense of failure to carry a certificate of alien registration issued to the person and provides a penalty.
- This legislation requires law enforcement under certain circumstances and with reasonable suspicion to determine whether a person is lawfully present in the United States. The legislation delineates information that may be provided to presume the person is legally present in the United States. This legislation provides procedures for verification of status and exceptions. This legislation creates the offense of providing false information and provides penalties. The legislation provides for the collection of data on motor vehicles stopped without a citation issued.
- Relating to the verification of the status of prisoners, notification of the United States Department of Homeland Security, and housing and maintenance expenses, this legislation provides for transportation of a prisoner who is an alien unlawfully present in the United States to a federal facility or other form of federal custody and for notification to the United States Department of Homeland Security.
- This legislation amends portions of the 2008 employer verification law. Among other things, the waiver of the monetary fine imposed on an employer for initial violations of the law if the employer complies is removed. The fine will be based on the degree of non-compliance up to \$1,000 per violation. This legislation allows the employment of workers who possess a valid United States passport or valid United States military identification card. Also, a general contractor must keep the contact name and phone number of any subcontractor on a job site. Additionally, the legislation allows a business to have its name removed from the state regulator's website of offenders after a year of compliance with the law that requires them to verify employees' legal status.
- The legislation places a fee on money transmitters that wire money to another country. Any funds generated from these wire transfers will be used to fund an immigration enforcement unit within the Department of Public Safety. This special unit will enforce immigration laws as authorized pursuant to federal laws and the laws of this State.
- This legislation creates the offense of providing false picture identification for use by an alien unlawfully present in the United States and provides a penalty.

H.4185 CANDIDATE QUALIFICATIONS Rep. Bingham

This legislation provides that a candidate seeking to participate in a presidential preference primary must include within his statement of candidacy a sworn affirmation that he meets all the requirements for holding the office of President of the United States.

LABOR, COMMERCE AND INDUSTRY

H.4180 *LIMITATION OF PRESCRIPTION DRUG COST-SHARING*

***OBLIGATIONS OF HEALTH INSURANCE PLANS* Rep. Cobb-Hunter**

This bill provides that a health insurance plan's prescription benefit may not have a cost-sharing obligation of more than one hundred dollars for a one-month supply of a covered prescription drug for which no generic drug equivalent is available. This cost-sharing obligation may increase to an amount greater than one hundred dollars not more than once annually, and only by an amount that does not exceed the percentage change in the medical care component of the March Consumer Price Index for Southeastern United States as provided by the United States Department of Labor, Bureau of Labor Statistics.

H.4187 *LEGISLATIVE NOTIFICATION REQUIRED WHEN BUSINESS*

***RECRUITING INDUCEMENTS INCLUDE PROMISES TO SEEK STATE LAW CHANGES* Rep. Quinn**

This bill establishes requirements for notification by state and local officials to members of affected legislative delegations when as an inducement to recruit a new or expanded business enterprise in this state a promise is made to seek a change in state law. The legislation requires notice in writing of the inducement to all members of the General Assembly when such an inducement is included in any agreement entered into by state or local officials.

WAYS AND MEANS

H.4186 *"TOURISM DEVELOPMENT ACT"* Rep. Bannister

This bill enacts the "Tourism Development Act" to provide that the governing bodies of counties in which an international airport is located and which collects at least two million dollars in accommodations tax revenue in a fiscal year, by a positive majority vote, may impose by ordinance an additional local accommodations marketing fee not to exceed two percent in one percent increments in the unincorporated areas of those counties. The legislation establishes limitations on the total amount of state and local sales and use taxes and accommodations taxes that may be imposed in these jurisdictions, and requires revenue from the fee to be used exclusively for tourism marketing communications directed at non-South Carolina residents.

Legislative Update, May 11, 2011

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